

REMARKS

Upon entry of the foregoing amendments, independent Claims 23, 33 and 44 have been amended. Claims 23-28, 32-36, 39, 40, 42-44 and 52-56 are pending. No new matter has been added.

In the Office Action, Claims 23-28, 32-36, 39, 40, 42-44, and 52-56 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Published Patent Application No. 2003/0078692 to Heber et al. (“Heber”).

Rejection Based on Heber under 35 U.S.C. § 102(e)

The pending claims are rejected under 35 U.S.C. § 102(e) as being unpatentable in view of Heber. This rejection is respectfully traversed.

Independent Claims 23, 33 and 44 have been amended to recite that at least one of the command variable and the secondary variable are time-dependent. In contrast, the Heber reference does not describe at least one of the command variable and the secondary variable being time-dependent. Instead, Heber describes a simpler system wherein curves are created based simply on points or polygons. For example, as Heber describes, “lists of points are created, prepared profiles are used, or polygons are created via simple polynomial functions.” (Heber, para. 0002.) Heber is focused on the creation of “profiles/ polygons in the controller.” (Heber, para. 0003.)

The embodiments described in Heber fail to disclose a time-dependent command variable or secondary variable. In the example provided in paragraph 0028 of Heber, the instructions of the function are solely based on location-dependent variables such as adding a point or segment or setting the cam scale. (Heber, para. 0028.)

This absence of time-dependent variables in Heber is further explained in the beginning of the specification for the present application. Paragraph 0009 of the present specification references the German application corresponding to the Heber reference. As explained in paragraph 0009 of the present specification:

One example of this is the German laid-open patent application DE 10065422A1 [referenced as a priority application in the Heber reference]. The cam disk is followed in accordance with a chosen cam disk profile. However, only relationships of **positions** of movable machine elements are recorded in the cam disk profiles.

The cam disk profile is independent of the profile type for the

movement control, the movement control having a time basis, such as for example a speed. Profiles for movement controls are also referred to as traversing profiles. The object of the present invention is to improve **movement control**.

(Specification of the present application, para. 0009) (emphasis added). Thus, as explained in the present specification, Heber is limited to positions or location-dependent variables. In contrast, as recited in the independent claims, at least one of the command variable or the secondary variable are time-dependent because the object of the present invention is to improve movement control which is time-dependent.

Thus, it is respectfully requested that the rejections under 35 U.S.C. §102(e) be withdrawn. Applicants submit that the pending claims are patentable over the cited art.

No Waiver

All of Applicants' arguments and amendments are without prejudice or disclaimer. Applicants have not addressed each specific rejection of the independent and dependent claims because Applicants submit that the independent claims are allowable over the documents of record, as discussed above. Applicants have not acquiesced to any such rejection and reserve the right to address the patentability of any additional claim features of any additional claim features in the future.

CONCLUSION

Based on the foregoing remarks, Applicants respectfully request reconsideration and withdrawal of the rejection of the claims and allowance of this application.

AUTHORIZATION

The Commissioner is hereby authorized to charge any additional fees which may be required for consideration of this Amendment to Deposit Account No. 50-3732, Order No. 03869-105012.

In the event that an extension of time is required, or which may be required in addition to that requested in a petition for an extension of time, the Commissioner is requested to grant a

petition for that extension of time which is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to Deposit Account No. 50-3732, Order No. 03869-105012.

Respectfully submitted,
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